THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO.23163 OF 2007

Dated 02-11-2007

Between :

M/s Kun Automobiles …Petitioner

And

The Assistant Commissioner
And two others …Respondents

THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO.23163 OF 2007

O R D E R (Per the Hon'ble Sri Justice Bilal Nazki):

Heard learned counsel for the parties. With their consent, the writ petition is being disposed of at this stage.

The case of the petitioner is that pending disposal of the appeal filed by him before the Sales Tax Appellate Tribunal (for short "the Tribunal"), Hyderabad, he filed an application seeking stay of collection of the disputed penalty before the third respondent. The stay application was dismissed by the third respondent by order dated 07-08-2007. As the first respondent is taking coercive steps for recovery of the disputed penalty, pending disposal of the appeal before the Tribunal, the petitioner has approached this Court by way of this writ petition.

We have gone through the record and heard learned counsel for the parties. We feel that the interest of justice would have been met if stay of recovery of the disputed penalty was granted pending appeal, subject to deposit of 25 per cent of the disputed penalty. Therefore, we set aside the order dated 07-08-2007 passed by the third respondent and direct that 25 per cent of the disputed penalty shall be paid by the petitioner, within a period of four weeks. For four weeks, there shall be an unconditional stay of recovery of the disputed penalty and the stay

shall continue till disposal of the appeal before the Tribunal, provided the amount is deposited within four weeks. The deposit of amount shall be without prejudice to the rights of the petitioner in the appeal. However, if the petitioner has already paid any amount towards the disputed penalty, while calculating the 25 per cent amount, the amount already paid by the petitioner shall be given credit to.

The writ petition is accordingly disposed of. No costs.

_____

Bilal Nazki,J

Dated 2nd November, 2007

_____

Ramesh Ranganathan,J

vrn